



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Norman P. Formo Attorney Docket No.: FPMI114707  
Application No.: 09/520,947 Group Art Unit: 1761  
Filed: March 8, 2000 Examiner: Robert A. Madsen  
Title: DOUBLE BAGGING SYSTEM

APPLICANT'S APPEAL BRIEF

Seattle, Washington 98101

March 19, 2003

TO THE BOARD OF PATENT APPEALS AND INTERFERENCES:

This brief is in furtherance of the Notice of Appeal, filed in this case on November 19, 2002.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying Transmittal of Appeal Brief.

This brief is transmitted in triplicate.



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## I. REAL PARTY IN INTEREST

The real party in interest in the pending patent application is Formost Packaging Machines, Inc., a Washington corporation having a current business address of P.O. Box 359, Woodinville, WA 98072. Formost Packaging Machines, Inc., is the owner of all right, title, and interest in the pending patent application through an assignment recorded at Reel 010662, Frame 0688.

## II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to appellant, appellant's counsel, or the assignee that will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

## III. STATUS OF THE CLAIMS

Claims 25-35 are currently pending in the application. Claims 1-24 have been canceled. In an Office Action dated June 19, 2002, Claims 25, 26, 30-34 were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,428,240 (Morris) in view of New Zealand Patent No. 243,745 (McEachen) and Great Britain Patent No. 2,331,059 (Theed). Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of U.S. Patent No. 5,741,075 (Collins). Claims 28 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of U.S. Patent No. 2,132,144 (Blum). Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of Collins, further in view of Blum.

The final rejection of Claims 25-35 was appealed in a Notice of Appeal on November 19, 2002.

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#### IV. STATUS OF AMENDMENTS

No amendments have been filed since the Examiner's final rejection of Claims 25-35 in the Office Action dated June 19, 2002.

#### V. SUMMARY OF THE INVENTION

The present invention provides a system or method for providing a double package for high end or premium bread, including pre-sliced loaves, having a tight, neat inner package and an outer bag. The invention also relates to the double package of high end bread itself.

The preferred embodiment is best described with reference to Figures 1-2F. The bread is initially bagged in a preformed bag 20, which preferably has a closed end 22 that is gusseted for an attractive appearance. Fig. 2B. The preformed bag 20 also has an open or mouth end 24, which is then gathered and heat sealed, as represented in Figure 2C. *Id.* at page 3, line 31–page 4, line 4. Thereafter the sealed bag 20 is heat shrunk, but only to the degree necessary to create a reasonably tight, neat package as shown in Figure 2D. *Id.* at page 4, lines 5-10, page 5, line 33- page 6, line 16. The bread and inner bag is then placed with the now-sealed mouth end 24 first into a looser outer bag 40, which is then closed with a twist tie or clip. *Id.* at page 4, lines 15-31.

This results in the presentation of a neat appearance (closed end 22) when the outer bag 40 is opened by the consumer. *Id.* at page 4, line 32-page 5, line 7.

Packaging the bread in the manner of the present invention can be performed by automated machinery. *Id.* at Fig. 1; page 3, line 13 – page 4, line 31.

In another aspect of the present invention, the closed end 22 of the inner bag 20 has perforations 60 for easy opening by the customer and also to provide a tamper evident package. *Id.* at page 5, lines 8-32.

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## VI. ISSUES PRESENTED

The issue presented for review is whether the Examiner improperly rejected Claims 25-35 under 35 U.S.C. § 103. In improperly rejecting Claims 25-35, did the Examiner,

- (a) fail to address each and every claim limitation as required by M.P.E.P. § 706.02(j);
- (b) fail to provide a suggestion or motivation to combine the references as required by *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. Int. 1991); and
- (c) improperly use hindsight to re-construct the claimed invention in violation of *In re Octiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992).

## VII. GROUPING OF CLAIMS

The claims can be discussed as grouped by the Examiner:

Claims 25, 26, 30-34 were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,428,240 (Morris) in view of New Zealand Patent No. 243,745 (McEachen) and Great Britain Patent No. 2,331,059 (Theed). Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of U.S. Patent No. 5,741,075 (Collins). Claims 28 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of U.S. Patent No. 2,132,144 (Blum). Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris in view of McEachen and Theed, further in view of Collins, further in view of Blum.

## VIII. ARGUMENT

As set forth more fully below, the Examiner has taken a collection of disclosures related to the art of packaging bread and using the applicant's disclosure as a guide, has selected from those references the bits and pieces in an attempt to re-create applicant's invention. However, in doing so he has ignored aspects of the teaching of the prior art and has impermissibly assigned

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such broad "functions" for the packaging of applicant's invention and the packaging in the prior art that virtually any piece of packaging could substitute for any other. As a result, he has not established a *prima facie* case for obviousness of the claimed invention.

A. The Claims

The application presently has pending independent Claims 25 and 32, and claims dependent thereon.

Claim 25 sets forth a new method for packaging a loaf of bread. The loaf is fed into a first (or inner) preformed bag. The closed end of the inner bag has bag-weakening opening means to enable access to the bread from the closed end. The other open or mouth end of the bag is closed, and the inner bag is heat shrunk to closely encircle the loaf. Then the bread and inner bag are fed into a second preformed bag, with the now-sealed mouth end of the inner bag being inserted first. The claim additionally requires that the outer bag be closed in a manner re-openable by the consumer, and that the opposite end of the outer bag not be configured to be openable by the consumer. Thus the originally open or mouth end of the inner bag is adjacent to the closed end of the outer bag, and the closed end of the inner bag is adjacent to the openable end of the outer bag.

Dependent Claims 26–29 more particularly claim the bag-weakening opening means of the inner bag, while dependent Claims 30 and 31 claim automated means of performing the method of Claim 25.

Independent Claim 32 claims a packaged loaf of bread snugly enclosed in a heat shrunk inner bag having a preformed closed end and a gathered, previously open end, the preformed closed end having bag-weakening means for manual opening by the customer, and the bread and inner bag being contained in a outer bag with a closed end and an openable end. The preformed

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closed end of the inner bag is adjacent to the openable end of the outer bag. The closed end of the outer bag is not configured for opening by the consumer.

Dependent Claim 33 states that the preformed closed end of the inner bag is gusseted, while dependent claims 34 and 35 claim perforations and scoring for opening the closed end of the inner bag.

B. Art cited by the Examiner

In the final rejection under 35 U.S.C. § 103, the Examiner cited five references: U.S. Patent No. 3,428,240 to Morris; New Zealand Patent No. 243,745 to McEachen; Great Britain Patent No. 2,331,059 to Theed; U.S. Patent No. 5,741,075 to Collins; and U.S. Patent No. 2,132,144 to Blum.

1. U.S. Patent No. 3,428,240 to Morris

Referring to Figures 1 and 4, Morris discloses a method of enclosing a sliced loaf of bread in an inner wrapping 12 of waxed paper or "other sheet material" and then enclosing end flaps 19 with heat sealing or separate end labels. The loaf and inner wrapping 12 are then placed in plastic bag 11, which has a closed end 13 and an open end 14. The open end of the outer bag is enclosed and opened conventionally by "tie means" for releasably tying the mouth of the bag. A line of perforations is provided around the periphery of the inner wrap 12 closely adjacent to the end 18 that is exposed to open end 14 of the plastic bag 11. Other than the discussion of the line of perforations, Morris discloses the same prior art as that set forth in the inventor's Background of the Invention, namely, an inner wrapper (not a preformed inner bag) which is then placed in an outer bag having an end that can be opened and closed.

2. New Zealand Patent No. 243,745 to McEachen

As shown in Figures 2 and 3, McEachen discloses a single bag 20 having an open end 1 and a closed end 2. Closed end 2 is preferably has a gusset 7 and perforations 10 providing a

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line of weakness either inside or adjacent to the gusset 7, i.e., a line of weakness at or near the closed end 7. The open end 1 is releasably closed, such as by a wire or plastic tag. This construction allows the bag to be "opened" at either end or at both ends. The mouth end is opened and closed conventionally, and the other end is opened by means of the line of weakness. McEachen does not disclose or suggest the use of more than the layer of packaging.

3. Great Britain Patent No. 2,331,059 to Theed

Theed discusses placing bread or other foodstuff in a shrink-wrap bag, applying suction to the bag, closing the bag so it contacts the surface of the bread, and applying heat to kill spores or bacteria on the bread. The shrink-wrapped bread is then placed in a special outer bag or wrap that has "perforations" or "apertures" to allow air into the outer bag, which is stated to keep the bread fresh after the heat shrink has been removed. The inner shrink-wrap is not optimized for opening and is intended to be removed when the outer wrap is first opened by the consumer, with the bread being stored only in the outer wrap until fully disposed of. See the paragraph bridging pages 6 and 7.

4. U.S. Patent No. 5,741,075 to Collins

Referring to Figures 1 and 2, Collins discloses a single plastic bag 1 with ends 3 and 4. End 4 is sealed and not intended to be opened, while end 3 is gusseted and heat sealed to form a flap 6. A line of perforations 7 is provided so that flap 6 can be torn off to give access to the contents of bag 1. A re-usable label 2 is adhered across flap 6 and upon first use, is peeled back to give access to flap 6. After flap 6 has been removed, the bag 1 may be closed by folding end 3 together and re-adhering label 2. Like McEachen, Collins discloses only a single layer of packaging.

5. U.S. Patent No. 2,132,144 to Blum

Blum teaches a wrapper 2 for perishable goods whereby multiple portions of the wrapper are weakened for easy removal, so that successive sections of the wrapping can be removed as the product within is removed.

C. The Examiner's Rejection under 35 U.S.C. § 103

Claims 25, 26, 30 and 31 were finally rejected under 35 U.S.C. § 103(a) on June 19, 2002, in Paper No. 8. The Examiner tersely equated the distinct inner and outer bags and forms of wrapping used in the art as indistinguishable "packages". Thus, the Examiner rejected Claims 25, 26, 30 and 31 as being unpatentable over Morris in view of McEachen and Theed.

According to the Examiner, "Morris teaches a method of enclosing a loaf of bread in an inner *package* with a weakening opening means ..., inserting the inner *package* (weakening opening means end last) into an outer *bag* having an open end configured for re-opening by a consumer and a closed [end] not configured for opening, [and] closing the outer bag such that the weakening opening means end is presented to the consumer upon reopening the open end of the outer bag." Paper No. 8 at pp. 2-3 (emphasis added). The Examiner also noted the closed end of the bag of Morris was not configured for opening by the consumer, and that Morris teaches the inner "package" is a wax paper wrapper (the same prior art disclosed in the applicant's Background of the Invention). *Id.* at 3.

The Examiner correctly noted that a wrapper is not the same as a heat-shrunk preformed bag with a closed end having a weakening opening means, and that Morris does not disclose inserting the bread and an inner bag into an outer bag with the open or mouth end of the inner bag first. *Id.*

He then states that "McEachen teaches enclosing bread in a *package* that provides the same feature as inner package of Morris (i.e., bread slice accessibility from an otherwise sealed

package)." *Id.* According to the Examiner, McEachen teaches the "conventionality of enclosing a loaf of bread in a bag with a closed end having weakening means (i.e., perforations) and an open end for filling, wherein the weakening means allow the consumer to access the bread after the package has been sealed." *Id.*

The Examiner goes on to claim it would have been obvious to modify the method of Morris by replacing the inner *wrap* with the *bag* of McEachen since "one would have been substituting one method of enclosing a loaf of bread with a weakening means for another for the same purpose: providing accessibility to [sic] loaf of bread in a sealed package." *Id.*

Because neither Morris nor McEachen teaches heat-shrinking the inner bag, the Examiner then claims "it was well known in the art that heat shrinking an inner *package* containing a loaf of bread, especially when the inner package is a bag, will provide sealing sufficient to preserve bread", relying on Theed. *Id.* at 4.

The Examiner used similar logic in rejecting Claims 32 and 34, and the claims dependent thereon. The Examiner again tersely equated the distinct inner and outer bags and forms of wrapping used in the art as indistinguishable "packages." *Id.* at 6-8.

D. The rejected claims are patentable

The Examiner's final rejection fails to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be a suggestion or motivation to combine the cited references as suggested by the Examiner. Second, there must be a reasonable expectation that the proposed combination would be successful. Third, the combined references must teach or suggest *every* claim limitation. Both the motivation to combine and the reasonable expectation of success must be found in the prior art, and not based on the applicant's disclosure. MPEP § 706.02(j). In the present case, none of these criteria are met and the Examiner has failed to establish a *prima facie* case of obviousness.

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1. Claims 25, 26, 30 and 31

It is impermissible to combine Morris, McEachen and Theed because there is no suggestion or motivation to combine the references. As the Federal Circuit has repeatedly cautioned, "there must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself." *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992). "To establish a *prima facie* case of obviousness, it is necessary for the Examiner to present *evidence*, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art *would have been led* to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention." *Ex parte Levingood*, 28 U.S.P.Q.2d 1300, 1301 (Bd. Pat. App. Int. 1993).

The cited references contain no such suggestion or motivation, and the Examiner presented no explanation or evidence to the contrary. Morris teaches the use of an easy opening inner *wrapper* and conventional reclosable outer *bag*. A consumer thus has access to the wrapper from one end of the outer bag, and to the loaf by use of the improved wrapper. McEachen teaches the use of a single bag. At best, McEachen would suggest replacing the outer bag of Morris with the outer bag of McEachen, provided suitable modifications were provided to the Morris construction to allow access to either or both ends of the enclosed loaf, but there is no suggestion that the inner wrapper of Morris can be replaced by the outer bag of McEachen. Indeed, if the McEachen bag were "substituted" for the Morris inner wrap, provisions would have to be made for access to the loaf through both ends of the outer bag. Stated in another way, if Morris is followed, consumer access is provided at one end which would be achieved by the openable end of McEachen, whereas if McEachen is followed access would be provided from

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both ends, requiring both ends of the outer bag be openable. If an outer bag can substitute for an inner wrapper, Morris alone should have provided a singular reference to render applicant's invention obvious, since it too has an outer bag.

The Examiner reaches this faulty conclusion in part because of the unreasonable breadth of common functionality he identifies in the prior art. According to the Examiner, the outer bag of McEachen is a substitute for the inner wrapper of Morris because both have the function of "bread slice accessibility from an otherwise sealed package." By this logic, any bread packaging is a substitute for any other bread packaging, as all packaging is ultimately intended to give the consumer access to bread slices from an otherwise sealed package. Applicant is certainly not aware of any packaging which is intended to thwart consumers' desire to obtain access to the packaged bread.

This claimed common functionality is also not supported by the specification. According to Morris, it is the function of the inner wrap to is to firmly maintain the loaf "in its original conformation ... so that the individual slices are held in position." Morris at Col. 2, lines 13-14. After the packaging has been opened by the consumer, it is the function of the outer wrapping to protect the unused bread. *Id.* at Col. 2, lines 25-34. The Examiner cannot identify any aspect of McEachen which suggests that the outer bag has the function of maintaining the loaf in its original conformation.

Furthermore, McEachen teaches an outer bag that is openable at either end, while the claimed invention requires that the inner bag be inserted second end last. There can be no incentive to place the McEachen outer bag into the Morris outer bag with the open end first, closed end last, when the McEachen bag is openable at either end and the bag into which it is inserted is openable at only one end.

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The Examiner has further relied upon Theed to render the step of heat shrinking the inner bag obvious. However, Theed also teaches that the inner bag is of a type that must be removed when the customer first opens the product, with the product then stored in only the outer bag until consumed. The cited references, which require wrapped bread, or outer bags configured to open at either end, or shrink wrapped bags configured to be removed from the product when first opened, do not "combine" to teach an inner bag, heat shrunk to present a neat appearance and configured to open at the originally closed end.

There simply is no motivation to combine the conflicting teachings of these three references to produce the applicant's invention; indeed, the Examiner does not point to any motivation or suggestion within the references themselves. Instead, the Examiner has selected certain elements (a wrapper configured for opening here, a bag there, and heat shrinking from a third place) and determined, without more incentive, that the applicant's invention is therefore obvious.

As the Federal Circuit has emphatically held:

Virtually all inventions are necessarily combinations of old elements. The notion, therefore, that combination claims can be declared invalid merely upon finding similar elements in separate prior patents would necessarily destroy all patents and cannot be the law under statute, § 103.

*Panduit Corp. v. Dennison Manufacturing Company*, 810 F.2d 1561, 1575 (Fed. Cir. 1987). Accordingly, an obviousness investigation may not simply find references in the prior art containing each of the separate elements recited in a claim, but rather must determine whether the invention, taken as a whole and giving consideration to the part-to-part relationships set forth in the claims, is obvious in view of the prior art. *See Lindemann Maschinenfabrik v. American Hoist and Derrick*, 730 F.2d 1452, 1459 (Fed. Cir. 1984). None of the cited references teach the particular manner in which a heat shrunk inner bag, configured for opening at its originally closed end, is placed within another bag so that its closed end is presented to the consumer upon

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opening of the outer bag. The cited references also do not teach the commonality of functionality identified by the Examiner. Thus, Claims 25, 26, 30 and 31 are not obvious.

Without the benefit of applicant's invention and the use of hindsight, no combination of the cited references would produce the invention as claimed. As the Federal Circuit has held, "the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). It is impermissible to use the claimed invention as an instruction manual to piece together the teachings of the prior art to render the claimed invention obvious. *Id.* But without applicant's invention, no modification of Morris is obvious.

2. Claims 27-29

Claims 27-29, like Claim 26, depend from Claim 25 and distinctly claim different bag-opening weakening means. For the same reasons that Claims 25 and 26 are patentable, i.e., the absence of any incentive in the prior to combine the various bags and other elements of applicant's invention, these claims are also patentable.

3. Claims 32 and 34

As with the earlier claims, the Examiner's rejection of Claims 32 and 34 must fail because there is no incentive to combine Morris, McEachen and Theed to produce the invention disclosed and claimed by applicant.

Morris teaches the use of an inner wrapper and an outer bag, while McEachen teaches the use of a single bag. At best, McEachen suggests replacing the outer bag of Morris with the outer bag of McEachen, but there is no suggestion that the inner wrapper of Morris can be replaced by the outer bag of McEachen. The Examiner again reaches this faulty conclusion in part because of the unreasonable breadth of common functionality he identifies in the prior art. He again

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concludes the outer bag of McEachen is a substitute for the inner wrapper of Morris because both have the function of "bread slice accessibility." The Examiner has further relied upon Theed to render the step of heat shrinking the inner bag obvious. However, Theed also teaches that the inner bag is of a type that must be removed when the customer first accesses the product, with the product then stored in only the outer bag until consumed. The cited references, which require wrapped bread, or outer bags configured to open at either end, or shrink wrapped bags configured to be removed from the product when first opened, do not combine to teach an inner bag, heat shrunk to present a neat appearance and configured to open at the originally closed end.

Without the benefit of applicant's invention and the use of hindsight, no combination of the cited references would produce the invention as claimed. Claims 32 and 34 are allowable.

4. Claim 33

Claim 33 depends from Claim 32 and distinctly claims that the preformed closed end of the inner bag is gusseted. For the same reasons that Claim 32 is patentable, i.e., the absence of any incentive in the prior to combine the various bags and other elements of applicant's invention, this claim is also patentable.

5. Claim 35

Claim 35, like Claim 34, depends from Claim 32 and distinctly claim different bag-opening weakening means. For the same reasons that Claims 32 and 34 are patentable, i.e., the absence of any incentive in the prior to combine the various bags and other elements of applicant's invention, these claims are also patentable.

IX. CONCLUSION

For the foregoing reasons, the pending Claims 25-35 are not obvious in view of the combination of Morris, McEachen and Theed as suggested by the Examiner. Applicant's claimed inventions contain many features that have neither been taught nor suggested by the

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prior art. The Examiner has only been able to combine the various elements of the cited references by using applicant's disclosure as a road map, and by ascribing functions so broad as to render virtually all packaging materials as substitutes for one another. When applicant's invention is considered as a whole, there is no doubt that it is unobvious in view of the combination of the cited references. For these reasons, the Examiner's final rejections should be reversed and the pending claims should be allowed.

#### X. APPENDIX OF CLAIMS

25. A method for packaging a loaf of bread, which method comprises:
  - feeding the loaf through an open first end of an inner preformed bag having a closed second end opposite the first end, the closed second end of the inner preformed bag having bag-weakening opening means for enabling access to the loaf by a consumer through the second end of the inner bag;
  - closing the first end of the inner bag and heat shrinking the inner bag to closely encircle the loaf;
  - inserting the heat shrunk inner bag and enclosed loaf endwise, second end last, through an open end of a preformed outer bag which outer bag has a closed end opposite the open end, the open end of the outer bag being configured for closing and for reopening by a consumer, but the closed end of the outer bag not being configured for opening by a consumer; and
  - closing the open end of the outer bag such that the bag-weakening opening means is presented to a consumer upon reopening of the open end of the outer bag, without providing bag-weakening opening means in the closed end of the outer bag and without exposing the first end of the inner preformed bag at the reopened end of the outer bag.

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26. The method defined in Claim 25, in which the bag-weakening opening means includes a row of bag-weakening perforations in the second end of the inner bag for manual opening of the inner bag by a consumer after reopening of the open end of the outer bag.

27. The method defined in Claim 25, in which the bag-weakening opening means includes a horizontal row of bag-weakening perforations in the second end of the inner bag for manual opening of the inner bag by a consumer after reopening of the open end of the outer bag.

28. The method defined in Claim 25, in which the bag-weakening opening means includes a bag-weakening score in the second end of the inner bag for manual opening of the inner bag by a consumer after reopening of the open end of the outer bag.

29. The method defined in Claim 25, in which the bag-weakening opening means includes a horizontal bag-weakening score in the second end of the inner bag for manual opening of the inner bag by a consumer after reopening of the open end of the outer bag.

30. The method defined in Claim 25, including performing the method automatically, including feeding the loaf through an open first end of an inner preformed bag having a closed second end opposite the first end by a first automatic bagging machine, and inserting the heat shrunk inner bag and enclosed loaf through an open end of a preformed outer bag by a second automatic bagging machine, such inserting by the second bagging machine being performed by moving the heat shrunk inner bag and enclosed loaf endwise, second end last, through the open end of the preformed outer bag.

31. The method defined in Claim 30, including automatically transferring the loaf enclosed in the inner bag from the first automatic bagging machine to the second automatic bagging machine and orienting the loaf for presentation to the second automatic bagging

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machine for insertion endwise, second end last, into the outer bag at the second automatic bagging machine.

32. A packaged product comprising a loaf of bread snugly enclosed in an inner heat shrunk bag having a preformed closed end and a gathered, previously open end opposite the preformed closed end, such heat shrunk inner bag and enclosed loaf being contained within a separate outer bag having a closed first end and an openable second end, the preformed closed end of the heat shrunk inner bag being adjacent to the openable end of the outer bag and such closed end of the heat shrunk inner bag having bag-weakening means for manual opening of the inner bag by a consumer, the second end of the outer bag being configured for opening by a consumer but the closed first end of the outer bag not being configured for opening by a consumer, and the inner bag being disposed within the outer bag with the preformed closed end of the inner bag adjacent to the openable second end of the outer bag and the gathered end of the inner bag remote from the openable second end of the outer bag.

33. The packaged product defined in Claim 32, in which the preformed closed end of the inner bag is gussetted.

34. The packaged product defined in Claim 32, in which the preformed closed end of the inner bag has perforations for opening of the inner bag.

35. The packaged product defined in Claim 32, in which the closed end of the inner bag has a bag-weakening score for manual opening of the inner bag.

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Respectfully submitted,

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